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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of the Pay Telephone ) CC Docket No. 96-128  
Reclassification and Compensation )  
Provisions of the Telecommunications )  
Act of 1996 )

COMMENTS OF PAGING NETWORK, INC.

Judith St. Ledger-Roty  
Wendy I. Kirchick  
Kelley Drye & Warren LLP  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
(202) 955-9600

Its Attorneys

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## Summary

In its *Payphone Orders*, the Federal Communications Commission adopted the deregulated local coin rate of \$.35 as a "market-based" surrogate for the payphone costs of 800 subscriber and access code calls. The Commission's decision to adopt a market-rate was predicated on its belief that IXC's have leverage to negotiate lower per-call compensation amounts because of their ability to block 800 subscriber calls from payphones.

Events subsequent to the Commission's *Payphone Orders* have demonstrated that it cannot rely on a market rate under a carrier-pays system. First, the *Illinois* Court has made it clear that the Commission must take into account the differences in costs between local coin calls and 800 subscriber and access code calls. Second, the *LEC Whitepaper*, filed with the Commission on June 16, 1997, demonstrates that it is not possible at this time for IXC's, and thus for subscribers to the IXC's 800 service, to block calls on a *per-call* or *per-subscriber* basis. However, the only way to exert leverage on the PSPs to keep rates in check is if the subscriber to the 800 service, *the party ultimately paying for the call*, has the information available to it necessary to make an informed choice of whether to accept or reject a call, and the technological and economic capability to block calls it chooses to reject.

The *LEC Whitepaper* indicates that the two pieces of data that are necessary, at a minimum, to block calls on a per-call or per-subscriber basis ((i) the two-digit code designating the call as one originating from a payphone, and (ii) the prices charged by the PSP on a real-time basis) cannot be made available to the IXC's, at least not at an economically feasible cost. Moreover, even if one assumes, *arguendo*, that such data were available, IXC's do not have the economic incentive to block 800 subscriber and access code calls, call which generate revenues for the IXC's.

In light of the fact that (i) the party paying for the call -- in this case, the 800 subscriber -- does not have the information necessary, nor the technology available, to block calls on a per-call or per-subscriber basis, and (ii) that per-call and per-subscriber blocking was the basis for the FCC's decision to adopt a market rate as an appropriate surrogate for 800 subscriber and access code calls, the FCC's rationale and justification no longer works. The only conclusion that can ultimately be drawn is that a market approach under a carrier-pays regime is illusory.

The only true market-based surrogate for 800 subscriber and access code calls is a calling-party-pays mechanism. This is the only approach that ensures that the payment obligation is placed upon the person who chooses to incur the costs. This, in turn, is the only manner in which to effectuate a true market rate.

Under a carrier-pays mechanism, the party placing the call is indifferent to the rate and, therefore, will place the call regardless of the rate. Under the carrier-pays approach, there is no incentive for the PSP to lower its rates. On the other hand, under a calling-party-pays approach, the

calling party has the economic incentives *and* the ability to choose PSPs with the most competitive rates. This puts market pressure on the PSPs to charge competitive rates.

While the Commission previously rejected a calling-party-pays approach, PageNet requests that the Commission reexamine the issue in light of new information regarding blocking technology and what *cannot* be done. If the Commission determines that it will utilize a market-based approach, calling-party-pays is the only payphone compensation mechanism that is an appropriate surrogate for 800 subscriber and access code calls.

If the Commission determines to retain the carrier-pays approach, it has no alternative but to use a cost-based rate. In this case, the costs of originating 800 subscriber and access code calls must be based on the costs of origination of those specific call types, not on either the costs or the rate of a local call. This is because, as has been recognized by the *Illinois* Court, the costs of local coin calls and the costs of 800 subscriber and access code calls are different.

The Commission should use an incremental cost standard, relying only on those specific additional elements that are necessary to place 800 subscriber and access code calls. Alternatively, the Commission could use the direct costs connected to the portion of the payphones associated with these types of calls.

Finally, the burden is on the PSPs to prove-up the costs associated with coinless calls.

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COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), by its attorneys, hereby submits its Comments in response to the Common Carrier Bureau's *Public Notice*<sup>1</sup> in the above captioned proceeding.

As set forth below, on remand, the Federal Communications Commission ("FCC" or "Commission") should establish compensation to payphone providers for 800 subscriber and access code calls at no more than the payphone provider's costs of providing the coinless capability for those additional calls. Under no circumstances should the Commission use a market rate, whether as a starting point in compensation development or as an end point, unless it relies on "calling party pays" as the compensation mechanism.

## I. INTRODUCTION

In the Commission's *Payphone Orders*,<sup>2</sup> the Commission adopted what it perceived to be a reasonable surrogate for 800 subscriber and access code calls originated from payphones.

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<sup>1</sup> *Public Notice, Pleading Cycle Established for Comment on Remand Issues in the Payphone Proceeding*, DA 97-1673 (rel. August 5, 1997).

<sup>2</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, 11 FCC Rcd 20541 (1996) ("*Payphone Report and Order*"); Order on Reconsideration, 11 FCC Rcd 21233 (1996) ("*Reconsideration Order*") (both orders together "*Payphone Orders*").

The Commission chose as a surrogate the \$.35 charged by certain deregulated payphone service providers for a local coin call, stating its belief that "deregulated local coin rates are the best available surrogates for payphone costs...". *Payphone Order* at 70. The Commission's reliance on a market rate surrogate, rather than actual costs, was predicated, as it said time and time again, on its calculation that the payphone provider "will be providing a competitive service (payphone use) and should therefore receive compensation equal to the market-determined rate for prov[id]ing this service."<sup>3</sup> *Reconsideration Order* at ¶ 68. Furthermore, according to the Commission, the marketplace will ensure that payphone service providers ("PSPs") are not overcompensated because "[c]arriers [interexchange carriers or "IXCs"] have significant leverage within the marketplace to negotiate for lower per-call compensation amounts, regardless of the local coin rate at particular payphones, and to block 800 subscriber calls from payphones when the associated compensation amounts are not agreeable to the [IXC] carrier."<sup>4</sup> *Reconsideration Order*, at ¶ 66.

Events subsequent to the Commission's *Payphone Orders* have demonstrated that the Commission cannot reasonably rely on the \$.35 market rate it selected, nor can it rely on any other sort of market rate under the carrier-pays system. In the first instance, as the Commission

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<sup>3</sup> In so doing, it did not indicate that reliance on "costs" was an inappropriate standard, but rather implicitly that market rates, and costs, are generally the same in the context of a truly competitive market. Furthermore, according to the Commission, "the costs of originating the various types of payphone calls are similar." *Payphone Report and Order*, at ¶ 70.

<sup>4</sup> PageNet uses "IXC" here as a shorthand. Obviously, all carriers handling 800 subscriber and access code calls should pay compensation, whether such carrier is a traditional local exchange carrier ("LEC") or traditional IXC.

recognizes, the *Illinois*<sup>5</sup> court has made clear that the Commission must take into account the cost difference between the provision by a payphone provider of local coin service, and the provision by a payphone provider or service originating coinless, 800 subscriber calls. Moreover, statements by the payphone service providers themselves in the *LEC Whitepaper*,<sup>6</sup> make clear that the Commission's assumptions are inaccurate. The *LEC Whitepaper* demonstrates that the ability of IXC's to block specific calls, and thus of subscribers to the 800 service to block specific calls, based on the rate to be charged by the payphone service provider, is not possible.<sup>7</sup> Clearly, the inability of individual 800 service subscribers to choose whether to accept or reject specific calls destroys any hope the FCC might have had that a competitive market, and thus a marketplace rate, could reasonably be used to compensate payphone service providers for 800 subscriber calls under the Commission's "carrier pays" approach. The FCC has no alternative but to use a cost-based rate so long as it relies on a "carrier pays" system. Alternatively, it can adopt the calling party pays method of compensation.

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<sup>5</sup> *Illinois Public Telecommunications Ass'n v. FCC*, D.C. Circuit Nos. 96-1394 et al. (July 1, 1997) ("*Illinois*").

<sup>6</sup> *See Whitepaper on the Provision of ANI Coding Digits*, LEC ANI Coalition, June 16, 1997 ("*LEC Whitepaper*") (attached hereto as Exhibit A).

<sup>7</sup> The Commission must distinguish between blocking and tracking. It is clear that no database or other mechanism exists to allow PageNet to block, or otherwise disallow, subscriber 800 calls which PageNet or PageNet's own subscribers believe are priced too high. In any case, the Commission's Order leaves this choice with the IXC, not with the subscriber to the 800 service.

## II. THE INABILITY OF CARRIERS, AND ULTIMATELY OF 800 SUBSCRIBERS, TO BLOCK ON A PER-CALL OR PER SUBSCRIBER BASIS MAKES A TRUE MARKET RATE FOR COINLESS CALLS IMPOSSIBLE UNDER A "CARRIER-PAYS" REGIME

The FCC's decision to utilize a market-rate to compensate PSPs for 800 subscriber calls was predicated on the idea that an IXC could block calls from payphones that charged rates that the IXC considered to be too high. In this manner, the IXC could exert leverage on the PSP to lower rates. The FCC explained:

The marketplace will ensure, over time, that PSPs are not overcompensated. Carriers [IXCs] have significant leverage within the marketplace to negotiate for lower per-call compensation amounts, regardless of the local coin rate at particular pay phones, and to block 800 subscriber calls from payphones when the associated compensation amounts are not agreeable to the [IXC] carrier.<sup>8</sup>

The Commission assumed that this blocking could occur on a *per-call* or *per-subscriber basis*.<sup>9</sup> However, as PageNet explains below, the ILECs own statements refute this assumption and demonstrate that the Commission's reliance on blocking as a mechanism to effectuate a market rate is misplaced. This is so, given all the surrounding circumstances, including the technical and economic impediments to an IXC with respect to blocking.

Clearly, the presence of real blocking capability was a cornerstone of the Commission's compensation decision and its reliance on a caller pays methodology. But, blocking can work

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<sup>8</sup> *Order on Reconsideration* at ¶ 66.

<sup>9</sup> *See Payphone Report and Order* at ¶ 17 ("If charges are not passed on in this manner, the *called party's* incentives for accepting or declining a *particular call* will be distorted. IXCs *also* have the option of blocking subscriber 800 calls from payphones, if they do not want to pay the *per-call* compensation charge."); *Id.* at ¶ 55 ("We conclude that 800 subscribers that are concerned that callers will not be able to reach them from payphones should contact their carriers and *negotiate contract terms that will ensure that the 800 subscribers are able to receive such calls.*").

to exert leverage on the PSPs to keep rates in check only if the party *ultimately paying for the call* has information available to it necessary to make an informed choice of whether to accept or reject a call, and the technological and economic capability to block calls it chooses to reject.

The FCC, itself, recognized in its *Payphone Report and Order*:

[F]or competitive markets to work properly, it is essential that consumers have full information concerning the choices available to them. Information on prices for payphone service is of primary importance. . . . [C]onsumers, [including subscribers to 800 service] need to be informed of the charges they will face.<sup>10</sup>

First, PageNet believes it important to distinguish between blocking on a per-payphone basis, and blocking on a per-call and per-subscriber basis. If the IXC can block on a per-payphone basis, the IXC can accept calls from one payphone but reject calls from another payphone. However, for a true market rate to develop, the IXC must be willing and able to block calls originating from payphones on a per-call or per subscriber basis so that the 800 subscriber can choose.<sup>11</sup> Blocking on a per-call basis means that the IXC, and thus the

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<sup>10</sup> *Payphone Report and Order* at ¶ 16.

<sup>11</sup> The Commission next explained the importance to a competitive market of the relationship between (i) the called party's incurring of the costs of payphone compensation, and (ii) that party's ability to accept or reject a call on a per-call basis:

Once it is possible to track subscriber 800 calls, a competitive market may pass these costs along in the same manner as they are incurred – on a per-call basis – to the *called customer*. If charges are not passed on in this manner, the *called party's* incentives for *accepting or declining* a particular call will be distorted.

Of course, the party chosen by the FCC to pay the per-call compensation rate to PSPs in the first instance, is *not* the called party and is *not* the party ultimately paying for the call. The cost is being passed on by the IXC to the subscriber to the 800 service. Yet the called party, *i.e.*, the 800 subscriber, has neither the information regarding the

subscriber, can accept certain calls from a particular payphone, but reject others. Blocking on a per-subscriber basis means that the IXC can accept calls from a particular payphone for one 800 subscriber, but reject calls from that same payphone for another 800 subscriber. In this manner, 800 subscribers (the called party), can choose to reject calls based on the price charged for the customer premises equipment ("CPE") by the payphone provider.<sup>12</sup> In turn, this ability to reject calls allows the 800 subscriber to influence the market rate by incenting the PSP to lower rates.

In order for the IXC, on behalf of its subscribers, to block calls on a per-call or per-subscriber basis, at least two pieces of data are necessary. First, the IXC needs to receive from the ILEC, on a real-time basis, the two digit code designating the call as one originating from a payphone.<sup>13</sup> Second, the IXC would need to receive from the ILEC the price charged by the

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payphone rate available to it on a real time basis, nor the ability to accept or reject the call. The 800 subscriber also does not have information regarding who or where the call is coming from.

<sup>12</sup> The cost of the 800 call, which is typically shorter in duration than other long distance calls (*see APCC Reply Comments*, filed July 15, 1996, at 28), probably does not exceed \$.05 (this is particularly true in the paging context). Therefore, the price set by the Commission in the *Payphone Orders* for the use of the payphone provider's CPE exceeds the cost of the call itself. There is no other circumstance that PageNet is aware of where the called party is required to pay for *any* of the costs of the CPE for the calling party.

<sup>13</sup> The code needs to be one specifically designating the call as one originating from a payphone, and not as one originating from a restricted line. For example, an "07" code identifies restricted lines, including not only payphones, but prison payphones and hospital phones, among others. *See LEC Whitepaper* at 3. Because the "07" code is overbroad, it is not sufficient for purposes of blocking.

PSP on a real-time basis.<sup>14</sup> It could then separate out calls with codes indicating that they originated from payphones, and compare the ANI to the compensation database. Only if both items of information could be made available to the IXC, would it then be possible for the IXC to block calls on a per-call or per-subscriber basis.

However, according the LEC ANI Coalition,<sup>15</sup> this data cannot be made available to the IXCs, at least at an economically feasible cost. For example, the *LEC Whitepaper* states that "[t]o deploy FLEX ANI ubiquitously throughout the nation . . . would cost hundreds of millions of dollars."<sup>16</sup> In addition, because FLEX ANI is provisioned on a CIC/end-office basis, "it is not possible to give . . . FLEX ANI for payphone calls alone."<sup>17</sup> In other words, if FLEX ANI were to be provided at no cost to IXCs for purposes of blocking, the IXCs would be required to receive FLEX ANI for purposes of identifying all types of phone calls. The same problem applies to giving access to the LIDB/OLNS database for purposes of identifying payphone calls. Such access cannot be limited to payphone calls alone.<sup>18</sup>

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<sup>14</sup> For this to work, there needs to be just one database of rates, kept absolutely current, and access to that database has to be free to the IXCs. The payphone providers must absorb that cost.

<sup>15</sup> The LEC ANI Coalition was formed by a number of LECs, including Southern New England Telephone Co., Ameritech, Bell Atlantic, BellSouth, GTE, NYNEX, Pacific Bell, Southwestern Bell Telephone Co., and US West.

<sup>16</sup> *LEC Whitepaper* at 8. "FLEX ANI" and "LIDB/OLNS" are systems that provide detailed information about the originating line.

<sup>17</sup> *Id.* at 7.

<sup>18</sup> *Id.*

It also appears from the *LEC Whitepaper* that real-time price data is also not available to IXC's: "[N]either LIDB/OLNS nor FLEX ANI . . . provides the price charged by the PSPs. [An IXC] would have to establish its own database, using the ANIs provided by LECs and pricing information gleaned from the PSPs."<sup>19</sup> PageNet is not aware of any IXC that is creating such a database and, furthermore, believes that it would be extremely costly to do so.

However, even if one assumes, *arguendo*, that the necessary codes could be passed to the IXC, the IXC could, at a reasonable cost, create a database of rates for PSPs throughout the country, and that the IXC thus had the ability to block calls on a per-call or per-subscriber basis, this does not mean that the IXC has the incentive to do so. Because these calls generate revenue for the IXC, it is in the economic interest of the IXC's to let 800 subscriber and access code calls through. This seems to be supported by the fact that AT&T is quoted as having stated that it is not going to develop call blocking technology.<sup>20</sup>

Again, this goes back to the issue of the development of a competitive market. It is not the IXC that is the ultimate paying party; the IXC is passing on these costs to its 800 subscribers. It is, therefore, not the IXC that has the incentive to police payphone prices and

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<sup>19</sup> *Id.* See also, Joint Brief of Interexchange Carriers, *Illinois Public Telecommunications Ass'n. v. FCC*, No. 96-1394 and consolidated cases (February 14, 1997) ("[I]n most cases carriers, including AT&T, cannot recognize *in real time* that a call is being placed from a 'high priced' payphone, which is necessary for a carrier to implement blocking procedures.").

<sup>20</sup> *LEC Whitepaper* at 7 (citing *AT&T Ex Parte* at 3 n.5 (AT&T is not developing technology that would allow it "to block calls from specific payphones based upon the compensation that will be due for the use of such phones.")).

to exert pressure on PSPs to lower rates.<sup>21</sup> The only possibility for a truly competitive market rate to develop is for the party paying the payphone compensation, in this case the 800 subscriber, to receive information regarding PSP rates on a real-time basis and to have the ability to block the call. Unfortunately, the information currently available (from the IXC's and the LECs), leads to the inexorable conclusion that this is not possible.

In light of the fact that per-call and per-subscriber blocking was the basis for the FCC's decision in the underlying proceedings that a market rate was an appropriate surrogate for 800 subscriber and access code calls, the FCC's rationale and justification have been shown to be erroneous. It is essential that the FCC now step back and review this contradiction in rationale and result. The only conclusion that can be ultimately drawn is that a "market approach" under a carrier-pays regime is illusory.

### **III. CALLING-PARTY-PAYS IS THE ONLY TRUE SURROGATE FOR A MARKET-BASED APPROACH TO PAYPHONE COMPENSATION.**

The only true market-based surrogate for 800 subscriber and access code calls is a calling-party-pays mechanism. PageNet supported this approach in its initial Comments in this proceeding, *See PageNet Comments* at 11-20 (July 1, 1996), and it continues to believe that this approach is the only one that can ensure that the payment obligation is placed upon the person

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<sup>21</sup> It is unrealistic to assume that the 800 subscriber can negotiate with an IXC to block or not to block payphone calls. First, as noted above, it is not feasible to block calls on a per-subscriber basis. The IXC can therefore not meet the blocking requests of all of its subscribers. The only option left to the 800 subscriber is to accept whatever the IXC chooses to do with respect to blocking payphone calls, or to change carriers. This is a drastic proposition for an 800 subscriber that has numerous accounts with a particular carrier. More importantly, the 800 subscriber may be contractually bound.

who chooses to incur the costs. This, in turn, is the only manner to effectuate a true market rate.

A calling-party-pays mechanism for payphone compensation, as opposed to a carrier-pays mechanism, economically incents the person who has the ability to choose the lowest cost service. Under the carrier-pays mechanism, the party placing the call is indifferent to the rate being charged by the payphone provider to the IXC, and ultimately to the called party.<sup>22</sup> The calling party will therefore place the call without any regard to the rate being charged. Under this approach there is thus no incentive for the PSP to lower its rates. This holds especially true in light of the fact that IXCs cannot, and apparently will not, block calls on a per-call or per-subscriber basis.<sup>23</sup> While it is the called party that bears the burden of payphone compensation under a carrier-pays regime, the called party is not able to exert market influence on the PSPs to lower their rates. This is so because: (i) the called party has no basis for knowing the rate being charged by individual PSPs, and (ii) the called party has no ability to expressly accept or reject the call on a per-call basis. Under this structure, a true market-based surrogate for 800 subscriber and access code calls is impossible.

On the other hand, a calling-party-pays approach creates the appropriate economic incentives for the calling party to choose the PSP with the most competitive rates. The fact that the calling party has this choice puts pressure on the PSPs to charge competitive rates, or to risk

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<sup>22</sup> Moreover, the calling party might not even be aware of the amount of the charge to the calling party, or the fact that such a charge even exists.

<sup>23</sup> As discussed above, while the IXC may be able to block calls from a particular payphone, it does not have the same incentive to do so as does the party that ultimately pays for the 800 subscriber calls. See Section II, *supra*.

losing callers to PSPs with lower rates (assuming the absence of locational monopolies or other factors creating a marketplace distortion). In other words, if the rate is too high, consumers will place fewer calls from those phones, thereby influencing the PSP to lower its rates. In turn, the public benefits from this market pressure in the form of lower prices and better services. This is the appropriate result in an efficient and competitive market, one in which the costs are being borne by the cost causer.<sup>24</sup>

Any mechanism other than calling-party-pays will create a situation which will jeopardize the existence of a ubiquitous network. Under a carrier-pays scenario, pursuant to which calls from payphones may be blocked by IXC's, the calling party may not be able to place a call. Imagine for a moment a situation in which the calling party's call will not go through, he or she does not understand why, and they cannot locate another nearby payphone from which to place his or her call (or another phone can be located but the call is also blocked from that payphone). The result will be consumer agitation and confusion.<sup>25</sup> In addition, the substantial negative impact on businesses that subscribe to 800 service will call into question the usefulness of that service. The result is a degradation of the network that can only be avoided by implementation

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<sup>24</sup> In addition, and as PageNet discussed in the earlier proceedings, the calling-party-pays mechanism is the least burdensome. It simply requires that the caller deposit a coin in order to place an 800 call. Its easy implementation eliminates the need for tracking, and thus removes this costly burden to the IXC's. This burden is even greater now due to the *Illinois* Court's decision to include within the payment obligation both LECs and small IXC's. A calling-party-pays mechanism would also eliminate the burden of providing data lists of ANI and related information, and the possibility of disputes regarding billing. Finally, it eliminates the burden on paging companies (and other 800 subscribers), whose members cannot track calls.

<sup>25</sup> The inconvenience to the calling party is far greater than is any inconvenience that results from requiring a coin deposit.

of a calling-party-pays system. Calling-party-pays is the only way that a calling party can go to a phone and not face the possibility that they will not be able to place the call.

While the Commission previously rejected a calling-party-pays approach, PageNet requests that the Commission reexamine the issue in light of new information regarding blocking technology and what *cannot* be done. See *LEC Whitepaper, supra* at Section II. If the Commission determines that it will utilize a market-based approach, it is clear that the caller-pays mechanism is the only payphone compensation scheme that is an appropriate surrogate for 800 subscriber and access code calls.

**IV. THE COMMISSION SHOULD ESTABLISH A REASONABLE COST BASED COMPENSATION AMOUNT FOR 800 SUBSCRIBER CALLS IF IT DOES NOT RELY ON CALLER PAYS.**

In response to the *Illinois* court's firm rejection of the local coin rate as the appropriate surrogate for the costs of 800 access and subscriber calls, the Commission now seeks specific comment on the differences in costs to the PSP of originating 800 subscriber and access code calls, on the one hand, and local calls, on the other. It further requests comment on whether the local coin rate, *e.g.* a market rate for local coin calls, subject to an offset for expenses unique to those calls, is an appropriate compensation rate for calls not compensated pursuant to contract arrangement, such as 800 subscriber and 800 access code calls. *Public Notice* at 3. Both of these questions assume a continued direct relationship between the local coin call rates and the *costs* to a payphone provider of originating an 800 subscriber or access code call. However, there is no direct relationship.

The costs of originating 800 subscriber and access code calls must be based on the costs of origination of those specific call types, not on either the costs or the rate of a local coin call. The only questions appropriate to a determination of the level of compensation for 800 subscriber or access code call are those dealing with the specific methodology of determining the specific costs to the payphone provider of originating those specific calls. These questions include, for example, whether the Commission should use embedded or incremental costs and what specific elements should be included in the cost calculation. As set forth below, the Commission should use an incremental cost standard. In so doing, it need rely only on those specific additional elements that are necessary to place 800 subscribers and access code calls. Alternatively, the Commission could use the direct costs connected to the portion of the payphones associated with these types of calls.

**A. The Direct Costs of the Provision of 800 Subscriber Calls Is a Small Fraction of Total Costs.**

As PageNet's *Petition For Limited Reconsideration* in the underlying proceeding explains, the costs of providing coinless 800 subscriber and access code calls are few. *See Petition For Limited Reconsideration* at 11-12. The service offered by the payphone provider for an 800 subscriber or access code call is, at most, the limited case of a portion of the coinless functionality in the payphone itself and, conceivably, a portion of the costs of the line between the payphone and the originating central office or serving wire center.

All of the other telephone company related charges associated with 800 subscriber calls are billed by local exchange carriers to the IXC's as part of originating and terminating access. These charges are, of course, already built into the rates that 800 subscribers pay the IXC's for

their 800 service. (There are, for example, no usage charges imposed by local exchange carriers on payphone providers for the origination of 800 subscriber calls.) *See PageNet Petition for Limited Reconsideration* at 10-11.

The vast percentage of the features and functions, as well as the maintenance and repairs expenses associated with the provision of payphones are associated with the acceptance and handling of coins. For example, payphones offering solely coinless capability are available for between \$150.00 and \$225.00. *See PageNet Petition For Limited Reconsideration* at 14; *AT&T Reply Comments* at 8. The depreciation and interest associated with a \$225.00 coinless unit would be \$45.00/year, or \$3.75/month assuming that all of the costs was paid for with debt, using a 10-year straight line depreciation. (People's Telephone Company in the underlying proceeding, sought \$61.06/month, which would yield a cost to People's of over \$6,300 per pay station. *Also see AT&T Reply Comments* at 7.)

Payphone maintenance, repair and replacement is also directly associated with coin. "A payphone operator must collect calls promptly from his instruments because if the coin box is full, the coins will back up into the coin mechanism, causing it to jam." *J. Brown* at 11. Not only can the payphone not generate additional coin revenue during this period, but they are more likely to be the subject of vandalism. *Id.* This mandate to collect coins promptly tends to increase the number of service calls to phones that may be working properly, with higher associated costs. *Id.* at 13.

Uncollectibles are also a significant expense not associated with 800 subscriber calls. One industry report indicated that non-coin uncollectibles are in the range of 5% of total

revenues. *Id.* at 34. However, these non-coin uncollectibles only result from 800 non-subscriber calls, as no money from the 800 subscriber or calling party is due to the payphone providers, and thus can never fall within the non-collectible category.

These are just a few examples of the costs associated primarily (if not exclusively) with coin calls. The record in this proceeding is "replete with evidence" that the costs of local coin calls are different from the costs of 800 subscriber and access code calls and, in fact, contains evidence that the costs of coin calls are higher. *Illinois* at 14. In any event, the burden is on the PSPs to prove the costs associated with coinless calls. The documentation and information necessary to support any claims with respect to costs is uniquely within their control. Because PSPs have the information to support claims with respect to costs, they must prove those claims to the Commission.<sup>26</sup>

## V. CONCLUSION

For the foregoing reasons, PageNet respectfully requests that the Commission adopt a calling-party-pays method of compensation. In the alternative, PageNet respectfully requests that

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<sup>26</sup> See, e.g., *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (Aug. 8, 1996), at ¶ 296 (burden is on the incumbent LECs to prove claims of technical infeasibility to state commissions "because they have the information to support such a claim. ").

the Commission adopt a cost-based rate, using an incremental cost standard, to replace the rate which has been vacated by the Court of Appeals.

Respectfully submitted,

**PAGING NETWORK, INC.**

By:



Judith St. Ledger-Roty

Wendy I. Kirchick

Kelley Drye & Warren LLP

1200 Nineteenth Street, N.W., Suite 500

Washington, D.C. 20036

(202) 955-9600

Its Attorneys

August 26, 1997



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**Whitepaper on the Provision of ANI Coding Digits**Federal Communications  
Office of Secret

June 16, 1997

**Introduction and Summary**

The linchpin of the Commission's payphone orders is the requirement that interexchange carriers compensate payphone service providers ("PSPs") for each and every call originated on a payphone. Although the Commission gave interexchange carriers until October 7, 1997, to develop the ability to track calls originating on payphones and pay per-call compensation, several interexchange carriers and resellers — including Telco Communications Group, Oncor Communications, and MIDCOM Communications Inc. — have advised the Commission that they already have that capability. Accordingly, they are seeking waivers from the Commission in order to pay per-call compensation ahead of schedule.

But some carriers appear to be dragging their feet. In particular, MCI and AT&T have been advising the Commission that there are technological barriers to their development of systems for, and participation in, per-call compensation. AT&T is requesting wholesale modifications to local exchange switches to alter the ANI coding digits they send, while MCI is requesting free access to two systems — LIDB/OLNS and FLEX ANI — that provide detailed information about the originating line. At the Commission's suggestion, a number of LECs — including Southern New England Telephone Company, Ameritech, Bell Atlantic Corporation, BellSouth Corporation, GTE Service Corporation, NYNEX Corporation, Pacific Bell, Southwestern Bell Telephone Company, and U S WEST (hereinafter the "LEC ANI Coalition") — have attempted to develop an industry solution that would address the complaints of AT&T and MCI. But no feasible solution has been identified. To the contrary, AT&T's and MCI's requests are incompatible with each other, contrary to the Commission's orders and findings, and unworkable and inefficient in the extreme.

More fundamentally, AT&T's and MCI's complaints are utterly without foundation. Contrary to AT&T's and MCI's assertions, there is simply no reason whatsoever why any modifications to LEC switches or provision of free access to FLEX ANI or LIDB/OLNS is necessary for per-call compensation to take place. To the contrary, the Commission's orders specifically contemplate that these changes are not necessary for per-call compensation, and many carriers (like Telco) are ready to pay per-call compensation now, without those changes, while others (including the LECs) will be ready soon. Indeed, given that AT&T and Sprint have had no difficulty paying per-call compensation on access code calls in the past, it is difficult to understand how AT&T and MCI can assert the need for extensive changes to LEC networks as a pre-requisite to paying per-call compensation now.

It thus appears that AT&T and MCI are simply stalling. Having pioneered services like 1-800-COLLECT (MCI) and 1-800-CALLATT (AT&T) to exploit a free ride on the backs of PSPs generally and LEC PSPs in particular, these two companies now carry a disproportionate share of payphone calls. They thus will lose the most when the industry shifts from flat-rate

compensation to per-call compensation. Consistent with their financial interests, they now are attempting to delay the shift to per-call compensation. But rather than simply seeking a waiver, they are attempting to shift not merely the time frame but the blame as well. The LECs, they claim, are not providing them with the information or coding digits they need. But the LECs, consistent with the Commission's orders, provide AT&T and MCI with all the information they need to make per-call compensation possible.

For these reasons, the LEC ANI Coalition submits this whitepaper to explain why AT&T's and MCI's claims are without foundation, Point I, infra, and why their proposals are economically infeasible, inequitable, unwise, and contrary to the Commission's orders, Points II-III, infra.

### Discussion

#### I. AT&T AND MCI DO NOT NEED ACCESS TO ADDITIONAL INFORMATION TO PAY PER-CALL COMPENSATION

In the Commission's Report and Order, the Commission mandated that all calls originated on payphones be accompanied by automatic number identification ("ANI") coding digits -- often referred to as "ANI ii" -- of "07" or "27," as specifically requested by MCI and Sprint.<sup>1</sup> The Commission reaffirmed that requirement in its Reconsideration Order.<sup>2</sup> Thus, when a call is transferred to an interexchange carrier, at least two pieces of information are provided. First, the interexchange carrier receives the ANI, which is the billing number associated with the originating line. Second, if the call is a payphone call, the interexchange carrier receives ANI ii coding digits of "07" or "27" as well.

Perhaps more important, the Commission's payphone orders also require LECs to provide to interexchange carriers a list of all ANIs associated with payphone lines. Report and Order at 57, ¶ 112; see also Recon. Order at 53-54, ¶¶ 111-113. Thus, at regular intervals, interexchange carriers receive a complete list of the billing numbers associated with payphone lines.

This is all the information interexchange carriers need to provide timely per-call compensation. The ANI ii coding numbers ("07" and "27") have well-understood meanings

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<sup>1</sup>Report and Order, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128 at 51, ¶ 98 (rel. Sept. 20, 1996) ("each payphone should be required to generate 07 or 27 coding digits within the ANI for the carrier to track calls") ("Report and Order").

<sup>2</sup>Order on Reconsideration, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128 at 46, ¶¶ 94, 99 (rel. Nov. 8, 1996) ("Recon. Order or Reconsideration Order").

established by the Industry Numbering Council ("INC"), an industry group representing both local and interexchange carriers. A "27" transmitted within the ANI indicates that the call originated on a "smart" line (one with coin supervision) used with so-called "dumb" payphones (hereinafter a "coin line"). And a "07" indicates that the call originated on a restricted line, such as the "dumb" lines used with "smart" payphones, inmate phones and coinless phones (hereinafter a "COCOT" line).<sup>3</sup> Consequently, interexchange carriers can use the "07"/"27" ANI ii digit codes to identify and segregate calls that may have originated on payphones.<sup>4</sup>

Having thus identified all potential payphone calls using the ANI ii digits, the interexchange carrier – at the end of each billing period – need only compare the ANIs for these calls on its billing tape to the LEC-provided list of payphone ANIs. For each compensable call that originates from a telephone number that appears on the LEC-provided ANI list, the interexchange carrier pays appropriate compensation to the PSP associated with that ANI. If a call originates from a number that does not appear on the LEC-provided ANI list, it did not originate on a payphone line. This is precisely the procedure that the Commission's payphone orders contemplate. See Report and Order at 56, ¶ 110.

Nonetheless, MCI and AT&T appear to have been advising the Commission to the contrary. In particular, MCI and AT&T appear to have argued that the ANI ii "07" code that identifies restricted lines does not provide sufficient information. The ANI ii "07" code is used to identify all restricted lines requiring special operator handling, including not just COCOT lines (dumb lines for smart payphones) but also, for example, prison payphones and hospital phones. See Letter from E. Estey, Government Affairs Vice President, AT&T, to Regina Keeney, FCC, May 23, 1997, at 3 n.4 ("AT&T Ex Parte").

For fraud prevention purposes, it is true that additional information about the type of originating line is sometimes required. Consequently, in a now-complete proceeding (Docket No. 91-35), the Commission established that additional codes corresponding to narrower classes of originating lines would significantly benefit the industry. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 11 FCC Rcd 17021, 17040, ¶ 34, n.79 (1996) ("OLS Order"). But, in so doing, the Commission considered, and explicitly rejected, the possibility of creating more ANI codes by hard-coding new ANI ii codes into the LECs' switch software. *Id.* at 17036, ¶ 26. Instead, the Commission ordered the LECs to deploy

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<sup>3</sup>Although the term "COCOT" stands for "Customer Owned Coin Operated Telephone," LEC PSPs and non-LEC PSPs alike use COCOT lines. In fact, the trend for LECs is to move from coin lines toward COCOT lines. See pp. 12-13, *infra*.

<sup>4</sup>For this reason, PSPs should be required to use a COCOT line rather than a business line where COCOT lines are available. For one thing, it is simply not feasible for LECs to associate the "07" code with any line other than a restricted line. For another, because LECs cannot tell what type of equipment is attached to a line, they cannot know that a line is being used to operate a payphone unless a COCOT line or coin line is requested.

one of two services designed to provide additional information. Reaffirming this requirement in a section entitled "Payphone Fraud," the Reconsideration Order required LECs to make payphone-specific information available to interexchange carriers. See Recon. Order at 33-35, ¶¶ 63-64.

The first of the two services approved in the OLS Order, FLEX ANI, substitutes more specific codes for the traditional, hard-coded ANI ii digits. The Industry Numbering Council's predecessor, the North American Numbering Plan Administrator, defined these new codes. For instance, the "70" code was defined as identifying a line associated with a pay station that does not use coin control supervision (a COCOT line), and "29" was assigned to inmate payphones. Thus, when FLEX ANI is in place and a call is made from a smart payphone using a dumb line, the traditional ANI ii identifying a restricted line ("07") is replaced with the more specific FLEX ANI "70" code (presuming the interexchange carrier has conditioned its trunks to receive the FLEX ANI codes). FLEX ANI, however, requires significant modifications to many LEC networks, at a cost of millions of dollars, and may be entirely infeasible for other LECs, especially smaller ones. Accordingly, the Commission specifically allowed LECs to recover their costs from those who use FLEX ANI, and declined to require the use of FLEX ANI as opposed to other, sometimes more cost-effective, alternatives. See OLS Order at 17035, ¶ 23; id. at 17036, ¶ 26.

Under the second method of providing more detailed information, the LECs provide interexchange carriers with access to their LIDB databases. When a call is placed from a restricted line (identified by the "07" ANI ii code), the interexchange carrier simply queries the LIDB to determine, for example, whether the call originated on an inmate phone, a hospital phone, a hotel phone, or a smart payphone. To use this service, often referred to as LIDB/OLNS, interexchange carriers pay a tariffed rate. The rate, however, is constrained by the Commission's pricing rules generally and the Commission's "new services" test in particular, see 47 C.F.R. §61.49(g)(2). Currently, interexchange carriers pay between 1.0 and 1.8 cents per query. This is significantly less than the 4 cents per query cited by the interexchange carriers in their ex partes.

It is unhappiness with the Commission's OLS Order — and an evident desire to delay the shift from flat-rate compensation to per-call compensation required by the payphone orders — that appears to be fueling AT&T's and MCI's current push before the Commission. Ironically, MCI and AT&T appear to have diametrically opposed views of the meaning of the payphone orders, and propose different solutions to the non-existent per-call compensation problem. MCI proposes that interexchange carriers be given free access to the LIDB/OLNS and FLEX ANI fraud protection services. See Letter from Leonard S. Sawicki, Director, FCC Affairs, MCI, to William F. Caton, Secretary, FCC (Mar. 7, 1997) ("MCI Ex Parte"). AT&T, in contrast, contends that neither of those systems is appropriate. Instead, it demands that local exchange carriers be required to modify their switch software to hard-code new, payphone-specific ANI ii codes, so that AT&T will receive the additional ANI ii codes it wants, but not other industry standard codes that it finds inconvenient. See AT&T Ex Parte at 2.